

Metro Draft – 5/31/23
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This Instrument Prepared By:
[Metro Legal]

PILOT LEASE

BETWEEN

**THE HEALTH AND EDUCATIONAL FACILITIES BOARD OF THE METROPOLITAN
GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE,**

a public nonprofit corporation organized and existing
under the laws of the State of Tennessee pursuant to
Tennessee Code Annotated Sections 48-101-301 *et seq.*
(the “Landlord” or “Board”)

AND

_____ **APPLICANT** _____,

a _____

(the “Tenant” or “Developer”)

Nashville, Tennessee

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PILOT LEASE

This PILOT Lease (the “Lease”) is made and entered into and effective as of the ____ day of _____, 202_ (the “Commencement Date”) is by and between THE HEALTH AND EDUCATIONAL FACILITIES BOARD OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY, TENNESSEE, a public nonprofit corporation organized and existing under the laws of the State of Tennessee pursuant to Tennessee Code Annotated Sections 48-101-301 *et seq.*, (the “Landlord” or “Board”) and _____, a _____ (the “Tenant” or “Developer”). Landlord and Tenant are jointly referred to herein as the “Parties” or individually as a “Party”.

RECITALS

WHEREAS, Landlord is a public nonprofit corporation and a public instrumentality of The Metropolitan Government of Nashville and Davidson County (“Metro”), and is authorized under Sections 48-101-301, *et seq.*, Tennessee Code Annotated, as amended (the “Act”), to acquire, own, lease or dispose of properties for certain purposes in the Act including, among other things, providing for additional safe and sanitary multifamily housing facilities to be used by persons of low and/or moderate incomes; and,

WHEREAS, Metro has established the Mixed-Income PILOT Program (the “Program”), which delegated to the Board the authority to negotiate and enter into payment in lieu of tax agreements with developers of qualifying multifamily housing properties who agree to provide a certain percentage of income-restricted housing units at affordable rates in accordance with the Program’s requirements; and,

WHEREAS, this PILOT Lease is being executed pursuant to that certain PILOT Agreement dated _____, 202_, between Landlord and Tenant (the “PILOT Agreement”) for the Program wherein Tenant agreed to construct or substantially rehabilitate a multifamily housing property where ____ of the ____ units would be reserved, income-restricted, and rented at affordable rates to qualifying individuals; and,

WHEREAS, Landlord has legal title to that certain real property located at _____ in Nashville, Tennessee which is improved and described more particularly in Exhibit A attached hereto that is an apartment complex known as _____ and consisting of ____ units of residential housing, with common areas, together with certain parking areas, drives, sidewalks, utility improvements, and related structures, improvements, and amenities (the “Project”) to be operated by Tenant at all times in compliance with the Program requirements and standards; and,

WHEREAS, the Landlord desires to lease such property to the Tenant for the purposes of the Program.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Landlord and Tenant hereby enter into this PILOT Lease on the terms and conditions set forth herein.

ARTICLE 1 - DEFINITIONS

Section 1.1 Definitions.

In addition to the words, terms and phrases elsewhere defined in this PILOT Lease or otherwise defined in the PILOT Agreement, the following words, terms, phrases shall have the following respective meanings:

- (a) **“Additional Rent”** — See Section 6.4;
- (b) **“Annual Base Rent”** — See Section 6.2;
- (c) **“Applicable Environmental Law”** – See Section 9.2(d);
- (d) **“Building Equipment”** – See Section 12.1;
- (e) **“Casualty”** – See Section 15.1
- (f) **“Commencement Date”** — See the introductory paragraph of this Lease;
- (g) **“Controlling Interest”** — See Section 12.1 (c);
- (h) **“Construction Work”** – See Section 3.2
- (i) **“Project”** — The property described in Exhibit A, including, but not limited to, all improvements constructed from time to time on the Land;
- (j) **“Event of Default”** — See Section 18.2;
- (k) **“Governmental Authority”** – for the purposes of this PILOT Lease, any federal, state, county, municipal and local governments, and all departments, commissions, boards, bureaus, agencies and offices thereof, having or claiming jurisdiction over all or any part of the Project or the use of either.
 - (l) **“Hazardous Substance”** – See Section 10.2(d);
 - (m) **“Indemnified Parties”** – See Section 8.1
 - (n) **“Landlord”** — See the introductory paragraph of this Lease;
 - (o) **“Leasehold Mortgage”** — See Section 12.1;
 - (p) **“Leasehold Mortgagee”** – See Section 12.1;
 - (q) **“Legal Requirements”** – See Section 10.1;
 - (r) **“Liabilities”** – See Section 8.2;

- (s) **“Limited Partner”** — _____, its successors and assigns.
- (t) **“Monitoring Fee”** — An annual fee in an amount up to the percentage limit provided for within the Ordinance according to the program level, of the amount of the PILOT payment due with respect to such Tax Year (as defined in the PILOT Agreement) payable by Tenant pursuant to the PILOT Agreement, commencing with Tax Year 1 and each Tax Year thereafter;
- (u) **“Net Condemnation Award”** — See Section 15.2(b);
- (v) **“Operating Expenses”** — See Section 7.2;
- (w) **“Parties”** — See the introductory paragraph of this Lease;
- (x) **“Partnership Agreement”** – See Section 11.1(c);
- (y) **“Permitted Encumbrances”** — See Section 4.1(a);
- (z) **“PILOT”** — See Section 7.1;
- (aa) **“PILOT Agreement”** – See Recitals;
- (bb) **“PILOT Lease”** — See the introductory paragraph of this Lease;
- (cc) **“Plans and Specifications”** – See Section 3.1;
- (dd) **“Remedial Work”** – See Section 10.2(a);
- (ee) **“Rent Commencement Date”** — See Section 6.1;
- (ff) **“State”** — See Section 4.2(a);
- (gg) **“Taking”** — See Section 15.2;
- (hh) **“Tenant”** — See the introductory paragraph of this Lease;
- (ii) **“Term”** — See Section 5.1;
- (jj) **“Transfer”** — See Section 11.1(c)

ARTICLE 2 - DEMISE OF LEASEHOLD INTEREST

Section 2.1 Project.

Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the Project for the Term, upon the terms and conditions stated herein.

The obligations of the Tenant to perform and observe any and all of the other covenants and agreements on its part contained herein, shall be absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim which the Tenant may otherwise have against any other Party. If the Tenant shall breach without curing in a timely manner or shall terminate this PILOT Lease or the PILOT Agreement, the Tenant will lose the benefit of the PILOT and the Landlord shall terminate this PILOT Lease and shall immediately transfer the title to the Project to Tenant.

ARTICLE 3 - IMPROVEMENTS

Section 3.1 Construction Work.

(a) Tenant represents and warrants that at its sole cost and expense it has or has caused the construction or substantial rehabilitation of the Project and the installation of “Building Equipment” (as defined in Section 13.1) therein and made any additions, alterations, changes and replacements (whether structural or non-structural) in or to the Project, and that the Landlord had no responsibility in construction of the Project.

(b) Tenant covenants and warrants that the Project has been constructed, and all construction work has been performed in good and workmanlike manner with due diligence and in compliance and accordance with the requirements of all applicable laws, ordinances, codes, orders, rules and regulations of all governmental authorities, agencies or departments having jurisdiction over the Project. Tenant further warrants and covenants that Landlord shall assume no responsibility for the quality of the construction or the workmanship or for the architectural or structural soundness of the Project or adherence to or approval of any plans and specifications in connection therewith. Tenant further warrants and covenants that no outstanding claims or liens exist on the Project relating to safety violations, payment of wages, or any other outstanding claims relating to the construction of the Project.

(c) Upon request, Tenant shall deliver to Landlord evidence that the Project has been completed in compliance with all applicable Laws (a certificate of occupancy or the equivalent thereof issued by the appropriate Governmental Authority shall be deemed satisfactory evidence of compliance with the requirements of this clause).

Section 3.2 Ownership of Project

Landlord and Tenant acknowledge and agree that during the entire Term, Tenant shall be the owner(s) of the Project and the Project for income or franchise tax purposes, and as such, Tenant alone shall be entitled to all depreciation or cost recovery deductions or other benefits for income tax purposes relating to the Project, and Tenant shall have the right to amortize capital costs and to claim any other federal or state tax benefit attributable to the Project. Landlord shall execute further certificates, documents and amendments to this PILOT Lease as reasonably requested by the Tenant (and at expenses of the Tenant) to confirm and establish that Tenant is the owner of the Project for income or franchise tax purposes.

Section 3.3 Access to Books and Records.

Tenant agrees to grant a right of access to the Landlord, with respect to any reasonably requested books, documents, papers, or other records related to this PILOT Lease in order to make audits, examinations, excerpts, and transcripts, upon reasonable prior notice.

Section 3.4 Inspection.

Until the Rent Commencement Date occurs, the Landlord reserves for itself and its authorized agents, upon forty-eight hours telephonic or written notice to Tenant, the right to enter the Project during normal business hours and to inspect the Project and any work in progress for the purpose of protecting or furthering the Landlord's interests under this Lease, subject to rights of tenants and subtenants of the Tenant. The Landlord shall have no obligation to make any such inspection of the Project. Such inspections are for the Landlord's information only, and any such inspection shall not relieve the Tenant of its obligation to complete the Project in accordance with this PILOT Lease. In no event shall the Landlord's inspection of the work be deemed acceptance of all or any part of the work, equipment, or materials or a waiver of any right the Landlord has under this PILOT Lease.

ARTICLE 4 - REPRESENTATIONS AND WARRANTIES

Section 4.1 Landlord's Representations and Warranties.

Landlord hereby represents and warrants to Tenant that:

(a) Landlord owns fee simple title to the Project, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, leases, tenancies, occupancies or agreements and other matters affecting title, except for those matters affecting title ("**Permitted Encumbrances**") set forth on **Exhibit B**, attached hereto and incorporated herein by this reference. The Project are in compliance with all easements, restrictions and other matters of record affecting title as of the date hereof. Except as otherwise provided in the PILOT Agreement and this Lease, the Landlord will not create any debt, lien or charge upon, or make any pledge or assignment of or create any encumbrance upon the Project, other than the pledge and assignment thereof under this Lease.

(b) Landlord has full right, power and authority to make, execute, deliver and perform its obligations under this Lease. Landlord has obtained and received all required and necessary consents and approvals to enter into this PILOT Lease with Tenant. The entry by Landlord into this PILOT Lease with Tenant and the performance of all of the terms, provisions and conditions contained herein does not and will not violate or cause a breach of or default under any agreement or obligation to which Landlord is a party or by which it is bound.

(c) There are no tenants, tenants or other occupants of the Project having any right or claim to possession or use of the Project or a claimed preference for occupancy in the Project.

(d) There are no unpaid special assessments of which Landlord has received notice, or of which Landlord is otherwise aware, for sewer, sidewalk, water, paving, gas, electrical or utility improvements or other capital expenditures, matured or unmatured, affecting the Project.

(e) Landlord is not obligated under any contract, PILOT Lease or agreement, oral or written, with respect to the ownership, use, operation, management, maintenance, lease, sale, or financing of the Project except as previously disclosed to Tenant.

(f) No representation, statement or warranty by Landlord contained in this PILOT Lease or in any exhibit attached hereto contains any untrue statement or omits a material fact necessary to make the statement of fact therein recited not misleading.

(g) There is no action, suit, litigation or proceeding pending or, to Landlord's knowledge, threatened against Landlord and/or the Project which could prevent or impair Landlord's entry into this PILOT Lease and/or performance of its or any of Tenant's obligations hereunder or materially and adversely impact Tenant's rights hereunder.

(h) The person signing this PILOT Lease on behalf of Landlord is duly and validly authorized to do so.

(i) There are no pending condemnation proceedings relating to any portion of the Project, and Landlord has received no notices of the institution or the proposed institution of condemnation proceedings relating to any portion of the Project or of any other proceedings against or any taking of all or any part of the Project.

(j) There are no special assessments assessed or due with respect to pending or completed public improvements.

(k) There is no pending or threatened litigation, governmental proceeding, notice of action required to be taken, judgment or cause of action against or related to the Project, or any portion thereof, or against Landlord or Landlord's agents with respect to the Project or any portion thereof.

Section 4.2 Tenant's Representations and Warranties.

Tenant hereby warrants and represents to Landlord that:

(a) Tenant is organized and validly existing under the laws of the State of Tennessee (the "**State**"), and is authorized to do business in Tennessee.

(b) Tenant has the power and authority to make, execute, deliver and perform this Lease.

(c) Tenant's execution and delivery of this PILOT Lease has been authorized by all requisite action on the part of the Tenant, and the execution and delivery of this PILOT Lease by Tenant and the performance of its obligations hereunder will not violate or contravene any agreement or obligation to which Tenant is a party or by which it is bound.

(d) There is no action, suit, litigation or proceeding pending or, to Tenant's knowledge, threatened against Tenant that could prevent or impair Tenant's entry into this PILOT Lease and/or performance of its obligations hereunder.

(e) Tenant has not contracted to include the Project in another PILOT program, Low-Income Housing Tax Credit program, or any other local government subsidy arrangement.

(f) The person signing this PILOT Lease on behalf of Tenant is duly and validly authorized to do so.

ARTICLE 5 - TERM

Section 5.1 Term of Lease.

The term of this PILOT Lease ("**Term**") shall be for a period commencing upon the Commencement Date and ending at the end of the fifth (15th) Tax Year (as defined in the PILOT Agreement), subject to earlier termination as contemplated herein or upon termination of termination of the PILOT Agreement, whichever occurs earlier.

ARTICLE 6 - RENT

Section 6.1 Rent Commencement Date.

Tenant shall pay rent as set forth in this Article 6 commencing on the first day of the month following the Commencement Date (the "**Rent Commencement Date**") and continuing each year thereafter on the annual anniversary of the Rent Commencement Date.

Section 6.2 Annual Base Rent.

Tenant shall, throughout the Term, pay, or cause to be paid, as minimum base rent, the sum of One Dollar (\$1.00) per year payable annually in advance.

Section 6.3 Reimbursement of Landlord.

Given that it is the intention of the parties that Landlord shall not incur any pecuniary liability by reason of this PILOT Lease, or by reason of any actions, documents, statutes, ordinances, or regulations pertaining to the foregoing or the Project, Tenant shall promptly pay any and all reasonable costs and expenses (including reasonable attorneys' fees), as such costs and expenses accrue, which may be reasonably incurred by, or judgments which may be rendered against, Landlord or any of its officers, employees, or agents at any time or times during, or subsequent to the Term: (a) in enforcing any of the terms, covenants, conditions, or provisions of this PILOT Lease or (b) in defending any claim, action, suit, or proceeding brought against Landlord or any of its respective officers, employees, or agents as a result of: (i) Tenant's violation of, or failure to comply with, any present or future Federal, State, or municipal law, ordinance, regulation, or order; or (ii) any alleged failure, neglect, misfeasance, or default on the part of Tenant, or any of the employees, servants, agents, tenants, independent contractors of any of the foregoing in connection with, arising from, or growing out of, this PILOT Lease or in connection with the Project, or any

operations conducted in, or any construction on the Land (including, but not limited to, liens or claims of lien related to such construction), or the use or occupancy of the Project, or any claim or action pertaining to, or connected with, any of the foregoing.

Section 6.4 Additional Rent.

“**Additional Rent**” shall mean all amounts that Tenant is obligated to pay under this PILOT Lease in excess of Annual Base Rent, including any and all reasonable costs and expenses incurred by Landlord in connection with the performance of any Tenant obligations hereunder, but such Additional Rent shall not be rent for federal or state income or state franchise or excise tax purposes. All Additional Rent will be payable by Tenant to Landlord within thirty (30) calendar days after Landlord has notified Tenant in writing of the amounts reasonably incurred by Landlord on Tenant’s behalf.

Section 6.5 Payments by Tenant.

Tenant will pay or cause to be paid all costs, expenses, liabilities, charges or other deductions whatsoever with respect to the Project and the construction, ownership, leasing, operation, maintenance, repair, rebuilding, use or occupation of the Project or the Development, including, but not limited to any costs, expenses, liabilities, charges relating to improvements to the Land or the Project, which, if not paid, could give rise to a lien against either the interest of Landlord and/or Tenant in the Project.

ARTICLE 7 - TAXES; OPERATING EXPENSES

Section 7.1 Taxes.

Tenant will pay or cause to be paid (a) any real estate taxes which are assessed against the Project by any taxing authority or (b) while the PILOT Agreement is in effect, any payments to the extent required by a cooperation agreement or amendment thereto providing for payments in lieu of taxes (“**PILOT**”) which is entered into by Tenant or Landlord with any taxing entity. Tenant shall further pay all City, County, State and federal taxes assessed against Landlord, and all sales, excise, franchise, gift, estate, succession and inheritance taxes of Landlord, if any. Tenant will pay or cause to be paid all real estate recordation taxes incident to this Lease, if any.

Section 7.2 Operating Expenses.

Tenant will pay or cause to be paid all costs and expenses attributable to or incurred in connection with the operation, maintenance and repair of the Project (the “**Operating Expenses**”).

Section 7.3 Contest.

Notwithstanding anything contained herein to the contrary, Tenant shall have the right to contest all taxes assessed against the Project, or any portion thereof, so long as Tenant is diligently and in good faith pursuing its objection to the same by appropriate administrative or legal proceedings, which actions shall operate to prevent the enforcement or collection of the same. While such contest is proceeding, failure to pay such taxes shall not be an Event of Default hereunder.

Section 7.4 Utilities.

Tenant at its sole cost and expense shall obtain and promptly pay for all utility services furnished to or consumed on the Project, including, but not limited to, electricity, gas, water, sewer, heat, telephone, garbage collection, and all charges related to any of these services.

ARTICLE 8 - INSURANCE; INDEMNIFICATION

Section 8.1 Tenant's Insurance.

(a) The Tenant shall, at its sole cost and expense, obtain and keep in force during the Term, insurance in the amounts and coverages, as follows:

- (i) *Commercial General Liability Insurance (Primary and Umbrella).* Commercial liability insurance or equivalent with limits of not less than \$1,000,000 per occurrence, and \$2,000,000 general aggregate for bodily injury, personal injury and property damage liability. In addition, the Tenant shall obtain umbrella coverage of \$10,000,000. Coverage extensions shall include the following: premises and operations, subcontractors, cross liability, products and completed operations, broad form property damage, environmental liability, blanket contractual liability, explosion, collapse and underground coverages (XCU), commercial auto liability, personal injury and errors and omissions. The Landlord shall be named as an additional insured on a primary non-contributory basis for any liability arising directly or indirectly out of this Lease;
- (ii) *All Risk Insurance.* ISO Special Form – Cause of Loss (or its equivalent insurance) covering loss or damage to the Project by fire, lightning, windstorm, explosion, hail, tornado and such other hazards, in an amount not less than 100% of the full replacement value cost of the Development;
- (iii) *Commercial Auto Liability Insurance.* Commercial auto liability insurance covering bodily injury and property damage with a minimum coverage limit of \$1,000,000 per occurrence for all owned, hired, and non-owned vehicles;
- (iv) *Worker's Compensation and Employer's Liability Insurance.* Worker's compensation and employer's liability insurance providing statutory worker's compensation coverage and minimum limits of \$100,000 employer's liability coverage;
- (v) *Employee Dishonesty Insurance.* Employee dishonesty insurance for employees handling funds, in an amount not less than \$250,000, obtained at its own expense, for the purpose of protecting the Landlord against dishonest acts of the Tenant and its employees. The

Landlord must be named as the loss payee. The insurance company, form, limits and content of such coverage will be subject to the approval of the Landlord;

(b) *Insurance Endorsement.* With respect to subsections 8.1(a)(i), (ii) and (iii) above, these policies shall be endorsed (a) to name the Landlord as an additional insured and as a loss payee; and (b) to waive subrogation rights against the Landlord.

(c) *Insurance Policy.* All insurance shall be carried with companies that are financially responsible and authorized to do business in the State of Tennessee. With respect to policies described in subsections 8.1 (a)(i), (ii), (iii) and (iv) above:

- (i) These policies must be in place before the effective date of this PILOT Lease and in-force insurance is a condition precedent to this Lease. For contractors the Tenant does not yet have a contract with, these policies must be in place prior to the contractor's performing any work on the Development;
- (ii) The Tenant shall provide the Landlord with an ACORD Form 28 Insurance Certificate as evidence of the limits and coverages described above, which shall be acknowledged and accepted by the Landlord by issuing a notice of acceptance and which shall affirmatively state that:
 - 1) The coverage is written on an occurrence form;
 - 2) The Landlord is named as an additional insured and loss payee; and
 - 3) Subrogation is waived (to the extent permitted under Tennessee law).
- (iii) In the event that the Tenant's insurance, or the insurance required by any other entity under this Lease, is scheduled to expire during the term of this Lease, the Tenant or the applicable contractor shall provide the Landlord with copies of renewal certificates thirty (30) days prior to the expiration date of the expiring coverage. The Tenant shall require its contractors to comply with this provision; and
- (iv) Tenant shall request that the insurance company notify the Landlord in the event of a substantial change in coverage during the policy term.

(d) *Claims.* In the event of a claim involving the Landlord that takes place as a consequence relating to this Lease, the Tenant will notify the Landlord within sixty (60) days following discovery of the claim by the Tenant. In addition, the Tenant will investigate and furnish the Landlord with reports of all accidents, claims and known potential claims for damage or injury and will cooperate with its insurers and those of the Landlord.

Section 8.2 Indemnification.

Tenant shall defend all actions against Landlord and any officer or director of Landlord (collectively the “**Indemnified Parties**”), with respect to, and shall pay, protect, indemnify and save harmless the Indemnified Parties against, any and all claims, demands, liabilities, losses, damages, costs and expenses (including reasonable attorneys’ fees and expenses of litigation) of any nature (collectively, “**Liabilities**”), (a) to which any of the Indemnified Parties is subject because of Landlord’s estate in the Project, or (b) arising from (i) injury to or death of any person, or damage to or loss of property, on the Project or on adjoining sidewalks, streets or ways, or connected with the use, condition or occupancy of the Project, (ii) Tenant’s violation of this Lease, (iii) any negligent act or omission of Tenant or its agents, contractors, licensees, subtenants, or invitees, (iv) any construction on or alteration of the Project, including, but not limited to, any lien or claim of lien filed against Landlord’s or Tenant’s interest in the Project; or (v) from any cause, event or circumstance whatsoever arising out of the Project or Landlord’s ownership thereof; provided, however, Tenant shall not be responsible for Liabilities arising out of the gross negligence or intentional misconduct of or by the Indemnified Parties. Tenant shall have the right to control the investigation, settlement and defense of any such claims or proceedings.

ARTICLE 9 - USE OF PROJECT, COMPLIANCE WITH LAWS

Section 9.1 Permitted Use.

Tenant will construct and operate the Project in accordance with the requirements of the Program.

Section 9.2 Compliance with Laws.

Tenant shall not use or occupy, or knowingly suffer or permit any portion of the Project to be used or occupied, in violation of any law, ordinance, order, rule, regulation, certificate of occupancy, or other governmental requirement.

Section 9.3 Non-Discrimination.

Tenant shall comply, and ensure compliance for all such subcontractors, agents, or others working under the direction of the Tenant, with all applicable equal opportunity laws (which includes, without limitation, the Fair Housing Act, Tennessee Human Rights Act, and the Tennessee Disability Act) in the operation of the Project and shall not discriminate against any person based on race, color, national origin, religion, sex, familiar status, age, or disability or any other protected class provided for under applicable law.

ARTICLE 10 – LEGAL REQUIREMENTS: ENVIRONMENTAL CONDITIONS

Section 10.1 Compliance with Laws.

During the Term, Tenant shall comply with and cause the Project to be in compliance with (i) all laws, ordinances and regulations, and other governmental rules, orders and determinations (collectively “**Legal Requirements**”) applicable to the Project or the uses conducted on the Project from time to time, (ii) the provisions of any insurance policies required to be maintained by Tenant with respect to the Project, and (iii) the terms of any easements, covenants, conditions and

restrictions affecting the Project which are Permitted Encumbrances or are created after the date of this Lease. If any additions, alterations, changes, repairs or other work of any nature, structural or otherwise, shall be required or ordered or become necessary at any time during the Term because of any of these requirements, the entire expense of the same, irrespective of when the same shall be incurred or become due, shall be the sole liability of Tenant.

Section 10.2 Hazardous Waste.

(a) Tenant shall not cause or permit any Hazardous Substance (as hereinafter defined) to be brought, kept or used in or about the Project by Tenant, its subtenants, agents, employees, contractors, or invitees except in commercial quantities similar to those quantities usually kept on similar premises by others in the same business or profession. Tenant shall store, use and dispose of such materials in compliance with all applicable federal, state and local laws, including, without limitation, Applicable Environmental Law (as hereinafter defined). If any Hazardous Substance which is found, kept or brought on, in or under the Project during the Term is released, suspected to be released or otherwise results in any contamination of the Project or any adjoining property or the air, soil, surface water or ground water, Tenant shall promptly take all actions, at its sole expense, as are necessary to return the affected area(s) to the condition existing prior to the introduction of any such Hazardous Substance, including, without limitation, any investigation or monitoring of site conditions or any clean up, remediation, response, removal, encapsulation, containment or restoration work required because of the presence of any such Hazardous Substance on, in or under the Project or any release or suspected release or threat of release of any such Hazardous Substance in the air, soil, surface water or ground water (collectively, the “**Remedial Work**”). Tenant shall obtain all necessary licenses, manifests, permits and approvals to perform the Remedial Work. Tenant shall perform all Remedial Work and the disposal of all waste generated by the Remedial Work in accordance with all Applicable Environmental Law. Notwithstanding the foregoing, however, Tenant shall not have any obligation to perform any Remedial Work that is necessitated by the presence of any Hazardous Substance coming onto or into the Project from any adjacent real property that is caused solely by Landlord or any Landlord Related Parties.

(b) Without limiting the generality of the foregoing or any other provision of this Lease, Tenant shall be solely and completely responsible for responding to, defending against and/or complying with any administrative order, request or demand relating to potential or actual contamination on the Demised Premises or release of any Hazardous Substance into any adjoining property or the air, soil, surface water or ground water, or third party claims (including the claims of current or future subtenants in the Project, or other tenants or subtenants in units or parcels adjoining or near the Project) for Remedial Work or for the costs of any such Remedial Work or for the costs of any such Remedial Work which the third-party claimant has undertaken, whether such order, request, demand or claim names Landlord, Tenant or both, or refers to the Project in any way, except where the contamination was caused solely or intentionally by Landlord, or, if Landlord is not a potentially responsible party solely because of its ownership of the Land, where such contamination affects or is released from the adjoining property and is caused by the acts or omissions of any party other than Tenant or its subtenants or their respective officers, directors, partners, employees, agents, contractors or invitees. The responsibility conferred under this paragraph includes but is not limited to responding to such orders, requests, demands and claims on behalf of Landlord and defending against any assertion of Landlord’s financial responsibility or individual duty to perform thereunder.

(c) Tenant shall indemnify, save harmless and defend Landlord and the other Indemnified Parties (as defined in Section 8.2 above) from and against any and all claims (including, without limitation, third party claims for personal injury or real or personal property damage), actions, administrative proceedings (including informal proceedings), judgments, damages, punitive damages, penalties, fines, costs, liabilities, interest or losses (including, without limitation, sums paid in settlement of claims approved in writing by Tenant, attorney's fees, consultant fees, expert fees and any fees and expenses incurred in enforcing this indemnity) reasonably incurred by, sought from or asserted directly or indirectly against Landlord during or after the Term as a result of the presence of any Hazardous Substance on, in or under the Project or any release of any Hazardous Substance into the air, soil, surface water or ground water, which Hazardous Substance was brought, kept or used in or about the Project at any time during the Term or any extension thereof, regardless of whether brought, kept or used by Tenant or its subtenants, agents, employees, contractors or invitees or persons or parties other than Landlord or parties acting at Landlord's direction. Tenant shall assume, pursuant to the foregoing indemnity, any liabilities or responsibilities which are assessed against Landlord in any action described under this Section 10.2(c) and under Section 10.2(b) above, provided that Tenant shall have the right to control the investigation, settlement and defense of any such claims or proceedings. Tenant shall provide to Landlord copies of all written communications, filings or other writings, photographs or materials given to or received from any person, entity or agency in connection with any cleanup or Remedial Work conducted by Tenant, and shall notify Landlord of, and permit Landlord's representative to attend any meetings or oral communications relating thereto.

(d) As used herein, the term "**Hazardous Substance**" means any hazardous or toxic substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Tennessee or the United States Government, including, without limitation, (i) any substance, chemical or waste that is or shall be listed or defined as hazardous, toxic or dangerous under Applicable Environmental Law, (ii) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any federal, state or local governmental authority pursuant to any environmental, health and safety or similar law, code, ordinance, rule, regulation, order, or decree and which may or could pose a hazard to the health and safety of occupants or users of the Project or any part thereof, any adjoining property or cause damage to the environment, (iii) any petroleum products, (iv) PCBs, (v) leaded paint, and (vi) asbestos. As used herein, the term "**Applicable Environmental Law**" shall include the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), 42 U.S.C. § 9601 et seq., the Resource Conservation and Recovery Act ("**RCRA**"), 42 U.S.C. § 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq., the Clean Air Act, 42 U.S.C. § 7401 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., and the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j-26, as such Acts have been or are hereafter amended from time to time; any so called superfund or super lien law; and any other federal, state and local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material as now or any time hereafter in effect.

(e) The obligations of Tenant and the indemnities set forth in this Section 10.2 shall survive the termination or expiration of this Lease.

ARTICLE 11 - ASSIGNMENTS, SUBLEASES AND TRANSFERS

Section 11.1 Consent Required.

(a) Consent. Except as not otherwise prohibited herein or in the PILOT Agreement, Tenant shall not, without Landlord's prior written consent, sublease, or assign this PILOT Lease or any interest therein to any party other than residential tenants and other conveyances, leases and assignments in the ordinary course of owning and operating the Project.

(b) Prohibited Transfers. Tenant agrees for itself and its successors and assigns in interest hereunder that it will not, other than by any Leasehold Mortgage approved in Section 11.1 herein: (1) assign this PILOT Lease or any of its rights under this PILOT Lease as to all or any portion of the Project, the unit equipment or the property generally, or (2) make or permit any voluntary or involuntary total or partial sale, lease, assignment, conveyance, mortgage, pledge, encumbrance or other transfer of any or all of the Project, the unit equipment or the property or the occupancy or use thereof, other than in accordance with this PILOT Lease (including but not limited to (i) any sale at foreclosure or by the execution of any judgment of any or all of Tenant's rights hereunder, or (ii) any Transfer by operation of law), without first obtaining Landlord's and express written consent thereto. Notwithstanding anything contained in this PILOT Lease to the contrary, foreclosure of any Leasehold Mortgage, or any sale thereunder, whether by judicial proceedings or by virtue of any power contained in the Leasehold Mortgage, or in lieu of, foreclosure or other appropriate proceedings in the nature thereof, shall not require the consent of Landlord, and upon such foreclosure, sale or conveyance, Landlord shall recognize the purchaser or other transferee in connection therewith as the Tenant under this PILOT Lease (the "New Transferee"). Following such foreclosure, sale or conveyance in lieu thereof, the New Transferee, subject to limitations set forth in Section 11.1 herein, shall have the right to further assign or sublet its interest in this PILOT Lease to a third party without the consent or approval of Landlord.

(c) Assignment of Interest in Tenant. In addition to the transfers described in paragraph (b) of this Section, no transfer, conveyance, or assignment shall be made, without the prior written approval of Landlord, of: (1) any direct interest of a managing member, general partner, or controlling stockholder (any such interest being referred to as a "**Controlling Interest**") of the Tenant; or (2) transfers of any Controlling Interest in any partner of Tenant, or any Controlling Interest in any entity that has a Controlling Interest in Tenant by any principal, partner, employee, or entity affiliated with Tenant to any other principal, partner, employee, or entity affiliated with Tenant; transfers, conveyances and assignments, together with the transfers described in paragraph (b) of this Section, is hereafter referred to as a "**Transfer**".

Notwithstanding anything to the contrary contained herein, the withdrawal, removal and/or replacement of the general partner of the Tenant in accordance with Tenant's Limited Partnership Agreement (as amended, amended and restated, supplemented and/or otherwise modified from time to time, the "**Partnership Agreement**") shall not require the consent of the Landlord. In addition, notwithstanding anything to the contrary contained herein, the interests of any limited partner in Tenant (the "**Limited Partner**") shall be transferable in accordance with the terms of the Partnership Agreement without the consent of Landlord. In addition, notwithstanding anything to the contrary contained herein, the assignment by Tenant's general partner of its interests in Tenant and rights under the Partnership Agreement to any Leasehold Mortgagee in accordance with any leasehold financing permitted under this PILOT Lease (and Leasehold Mortgagee's subsequent

exercise of its rights under any such assignment after a default by Tenant under the Leasehold Mortgage), shall not require the consent of the Landlord.

(d) Any person to whom any Transfer is attempted without such consent shall have no claim, right or remedy whatsoever hereunder against Landlord, and Landlord shall have no duty to recognize any person claiming under or through the same.

(e) Individual Rental Units. Any other provision of this PILOT Lease to the contrary notwithstanding, it is expressly understood and agreed that rental units in the Project may be subleased to residential tenants without Landlord's consent.

Section 11.2 Subsequent Assignment.

In cases where Landlord's consent is required, Landlord's consent to one assignment will not waive the requirement of its consent to any subsequent assignment.

Section 11.3 Request for Consent.

If Tenant requests Landlord's consent to a specific assignment, Tenant shall provide to Landlord such information as may reasonably be required by Landlord and Landlord shall not unreasonably withhold, condition or delay such requested consent.

Section 11.4 Transfer by Landlord.

Except as otherwise provided herein, Landlord shall not transfer all or any portion of its interest in the Project without the prior written consent of any Leasehold Mortgagee, Tenant's Limited Partners, and Tenant if the same would cause the Land to no longer be exempt from ad valorem taxes, result in the conveyance or encumbrance of title to the Project or any portion thereof.

ARTICLE 12 - LEASEHOLD FINANCING

Section 12.1 Right to Mortgage.

Tenant shall have the right, at any time and from time to time, to grant one or more mortgages of its interest in the PILOT Lease to lenders and, in connection therewith, collaterally to assign this PILOT Lease and all of Tenant's rights hereunder to such lenders (any such mortgage granted by the Tenant hereinafter referred to as a "**Leasehold Mortgage**" and, if more than one Leasehold Mortgage, collectively, the "**Leasehold Mortgages**"); and in such event, at Tenant's request, Landlord shall execute any such mortgage, or any note secured thereby or any other obligation securing any such note, and subordinate Landlord's fee interest in the Project or any portion thereof to the lien of any such mortgage as long as Landlord incurs no recourse liability in executing such instrument. Tenant shall identify the name of each mortgagee ("**Leasehold Mortgagee**") for such portion of the Project and the address(es) to which notices to the Leasehold Mortgagees are to be sent. Except for the mortgages on the fee interest of the Project for the benefit of The Health and Educational Facilities Board of the Metropolitan Government of Nashville and Davidson County, Tennessee, a public nonprofit corporation and instrumentality of The Metropolitan Government of Nashville and Davidson County, Tennessee and _____, Landlord represents that it has granted no mortgage or other lien upon this Lease, the Project or the Project as of the Commencement Date.

Section 12.2 Default Notice.

Landlord, upon providing any notice to Tenant of (i) default under this PILOT Lease or the PILOT Agreement, or (ii) a termination of this Lease, shall at the same time send a copy of each such notice to every affected Leasehold Mortgagee identified by written notice to Landlord and the Tenant's Limited Partner. From and after such notice has been given to each Leasehold Mortgagee, each Leasehold Mortgagee or the Limited Partner shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Tenant after the giving of such notice to Tenant, plus in each instance, the additional periods of time specified in Sections 12.3 and 12.4 to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. Landlord shall accept such performance by or at the instigation of such Leasehold Mortgagees or Limited Partner as if the same had been done by Tenant. Tenant authorizes any and each Leasehold Mortgagee or Limited Partner to take any such curative action at such Leasehold Mortgagee's or Limited Partner's option and does hereby authorize entry upon the Project by such Leasehold Mortgagee or Limited Partner for such purpose.

Section 12.3 Notice to Leasehold Mortgagee.

Anything contained in this PILOT Lease to the contrary notwithstanding, if any default shall occur which entitles Landlord to terminate this PILOT Lease as to all or any portion of the Project, Landlord shall have no right to terminate this PILOT Lease unless, following the expiration of the period of time given Tenant to cure such default, Landlord shall notify every affected Leasehold Mortgagee and Limited Partner of Landlord's intent to so terminate at least thirty (30) calendar days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least sixty (60) calendar days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 12.5 shall apply if, during such thirty (30) or sixty (60) calendar day notice period, any affected Leasehold Mortgagee or Limited Partner shall:

- (a) notify Landlord of such Leasehold Mortgagee's or Limited Partner's desire to nullify such notice, and
- (b) pay or cause to be paid all Additional Rent and other payments then due and in arrears applicable to the subject portion(s) of the Project, as specified in the notice given to such Leasehold Mortgagee and Limited Partner and which becomes due during such thirty (30) or sixty (60) day period, and
- (c) comply or in good faith, with reasonable efforts, commence to comply with any non-monetary requirements of this PILOT Lease applicable to the subject portion(s) of the Project then in default and except as provided in the following sentence, reasonably susceptible of being complied with by such Leasehold Mortgagee or Limited Partner.

No Leasehold Mortgagee shall be required during such thirty (30) day or sixty (60) day period to cure or commence to cure any default consisting of Tenant's failure to pay any construction related lien, charge or encumbrance against Tenant's interest in this PILOT Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee, and Landlord shall not terminate this PILOT Lease due to the existence of such lien, charge or encumbrance for so long as the Leasehold Mortgage remains in effect and such Leasehold

Mortgagee diligently pursues enforcement of the Leasehold Mortgage as provided in Section 12.4(b) below.

Section 12.4 Procedure on Default.

If Landlord shall elect to terminate this PILOT Lease as to all or any portion of the Project by reason of any default of Tenant, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 12.3, the specified date for such termination as fixed by Landlord in its notice given pursuant to Section 12.3 shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee, as the case may be, shall, during such six-month period:

(a) pay or cause to be paid, the Additional Rent and any other monetary obligations of Tenant under this PILOT Lease applicable to the subject portion(s) of the Project, as the same become due, and continue its good faith efforts to perform all of Tenant's other obligations under this PILOT Lease applicable to the subject portion(s) of the Demised Premise, including but, not limited to Tenant's obligation to satisfy or otherwise discharge any lien, charge or encumbrance against Landlord's interest in the Project or Tenant's interest in this PILOT Lease or any part thereof, but excluding past non-monetary obligations then in default and not reasonably susceptible of being cured (such as bankruptcy) by such Leasehold Mortgagee or Limited Partner;

(b) except to the extent enjoined or stayed, or not allowed pursuant to the provisions of the Leasehold Mortgages (or related loan documents), take any steps to acquire or sell Tenant's interest in this PILOT Lease related to the subject portion(s) of the Project, by foreclosure of such Leasehold Mortgage, deed-in-lieu of foreclosure, or other appropriate means and prosecute the same to completion with reasonable efforts; or

(c) exercise the Purchase Option, as defined in Section 19 of this Lease.

A Leasehold Mortgagee which has foreclosed on the Project shall have no liability following an assignment of its interest pursuant to the provisions of this Lease

Section 12.5 Extension of Cure Period.

If, at the end of the six-month period specified in Section 12.4, such Leasehold Mortgagee is complying with Section 12.6(a), this PILOT Lease shall not then terminate as to the subject portion(s) of the Project, and the time for completion by such Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Tenant's interest in this PILOT Lease related to the subject portion(s) of the Project, by foreclosure of its Leasehold Mortgage or by other appropriate means with reasonable efforts. Nothing in this Article 12, however, shall be construed to extend this PILOT Lease beyond the Term. If a Leasehold Mortgagee is complying with Section 12.6, upon the acquisition of Tenant's interest in this PILOT Lease related to the subject portion(s) of the Project by such Leasehold Mortgagee or its designee, or any other purchaser at a foreclosure sale or otherwise and the discharge, by operation of law or otherwise, of any lien, charge or encumbrance against the Tenant's interest in this PILOT Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which the Tenant is obligated to satisfy and discharge by the terms of this Lease, this PILOT Lease shall continue in full force and effect as if Tenant had not defaulted under this PILOT Lease with regard to the subject portion(s) of the Project.

Section 12.6 Right to New Lease.

In the event that this PILOT Lease is terminated by Landlord, or following a rejection of this PILOT Lease by Tenant in bankruptcy or similar proceedings, Landlord shall, if requested by Leasehold Mortgagee, grant to the Leasehold Mortgagee, or its designees (but only one of them) a new PILOT Lease on the following terms and conditions:

(a) In the event of the termination of this PILOT Lease prior to its stated expiration date, Landlord agrees that it will enter into a new PILOT Lease of the Project with any Leasehold Mortgagee, or, at the request of such Leasehold Mortgagee, with a corporation or other entity formed by or on behalf of such Leasehold Mortgagee, including the Tenant, for the remainder of the Term of this PILOT Lease effective as of the date of such termination, at the Annual Base Rent and Additional Rent and upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such Leasehold Mortgagee makes written request upon Landlord for such new PILOT Lease within thirty (30) days from the date Landlord notifies such Leasehold Mortgagee of such termination and such written request is accompanied by payment to Landlord of all amounts then due to Landlord under this PILOT Lease but for such termination, (ii) such Leasehold Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such new PILOT Lease any and all sums which would at the time of the execution and delivery thereof be due under this PILOT Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs, and costs and disbursements incurred by Landlord in connection with any such termination and in connection with the execution and delivery of such new PILOT Lease and (iii) such Leasehold Mortgagee agrees to reinstate the lien and take the Project subject to the loan of any other Leasehold Mortgagee which held a lien senior in priority to the lien of such Leasehold Mortgagee if such senior Leasehold Mortgagee had also requested a new PILOT Lease and tendered the required payment(s) and subject to all use restrictions on the Development.

(b) Any new PILOT Lease made pursuant to this Section 12.6 shall have the same priority as this PILOT Lease (except with respect to any non-electing Leasehold Mortgagee) and, except as provided in Section 12.1, shall be prior to any mortgage or any lien, charge or encumbrance of the fee of the Project created by Landlord, for a term of years equal to the balance of the Term of this Lease.

(c) Any mortgage upon Landlord's interest in the Project shall be subject to this PILOT Lease or to the new PILOT Lease to be given pursuant to this Section 12.6 and any mortgagee or holder of such mortgage or the beneficiary and trustee of any such mortgage must recognize this PILOT Lease or any new PILOT Lease and all rights of Tenant and each Leasehold Mortgagee hereunder and thereunder.

(d) The provisions of this Section 12.6 shall be self-operative and require no further action by the mortgagee of any mortgage or beneficiary and trustees of any deed of trust encumbering Landlord's interest in the Project, but upon request by Tenant or the Leasehold Mortgagee electing under Section 12.6(a), Landlord agrees to obtain from such mortgagee or beneficiary and trustees an instrument duly executed and acknowledged confirming the priority of such new lease.

(e) The obligation of Landlord to enter into a new PILOT Lease is conditioned upon (i) Leasehold Mortgagee's assumption of the PILOT Agreement, and (ii) Landlord obtaining any approvals required under applicable laws and agreements relating to the PILOT.

Section 12.7 Assumption of Tenant's Obligations.

For purposes of Articles 11 and 12, the making of a Leasehold Mortgage authorized pursuant to Section 12.1 herein shall not be deemed to constitute an assignment or transfer of this PILOT Lease or the Tenant's interest created hereby or any subtenant's interests created hereby, nor shall any Leasehold Mortgagee, as such, be deemed to be an assignee or transferee of this PILOT Lease or of the Tenant's interests under this PILOT Lease as to all or any portion of the Project so as to require such Leasehold Mortgagee, as such, to assume the performance of any of the terms, covenants or conditions on the part of the Tenant to be performed hereunder, but the purchaser at any sale of Tenant's interest under this PILOT Lease in any proceeding for the foreclosure of any Leasehold Mortgage or the assignee or transferee of Tenant's interest in this PILOT Lease under any instrument of assignment or transfer in lieu of the foreclosure of any Leasehold Mortgage shall be deemed to be an assignee or transferee approved by Landlord and shall be deemed to have agreed to perform all of the terms, covenants and conditions on the part of Tenant to be performed hereunder with regard to the subject portion(s) of the Project, but only for so long as such purchaser or assignee is the owner of the Tenant's interest in this PILOT Lease related to the subject portion(s) of the Project.

Section 12.8 Non-curable Defaults.

Nothing in this Article 12 shall require any Leasehold Mortgagee or Limited Partner or its designee as a condition to the exercise of rights provided under this Article 12 to cure any default of Tenant not reasonably susceptible of being cured by such Leasehold Mortgagee, Limited Partner or their designees. The foregoing shall not be deemed to excuse a Leasehold Mortgagee from performing covenants relating to the condition of the Project or Project or other similar matters

requiring access to and/or control of the Project from and after such time as such Leasehold Mortgagee acquires Tenant's interest in this PILOT Lease by foreclosure or otherwise.

Section 12.9 No Merger.

So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Project and the leasehold estate of Tenant therein shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by any single owner, other than by termination of this PILOT Lease by Landlord in compliance with the provisions of this Article 12.

Section 12.10 Effect of Landlord Bankruptcy.

In addition to all other rights and remedies of Leasehold Mortgagee as set forth in this Lease, Landlord acknowledges the lien of the Leasehold Mortgage attached to all of Tenant's rights and remedies at any time arising under or pursuant to Section 365(h) of the United States Bankruptcy Code, 11 USC Section 365(h), including without limitation, all of Tenant's rights to elect to remain in possession of the Project following a rejection of this Lease. In the event of the rejection of this PILOT Lease by Landlord or its trustee, Tenant shall be deemed without further act to have elected under Section 365(h)(I) of the Bankruptcy Code to remain in possession of the Project for the balance of the term of such rejected Lease. Any election to treat such rejected PILOT Lease as terminated shall be void. Landlord acknowledges that Borrower has unconditionally assigned, transferred and set over to Leasehold Mortgagee all of Tenant's claims and rights to the payment of damages arising from any rejection by Landlord (or its trustee) of the PILOT Lease under the Bankruptcy Code.

Section 12.11 Leasehold Mortgagee Reserved Rights.

Notwithstanding anything in this PILOT Lease to the contrary:

(a) If this PILOT Lease is rejected by Landlord or Landlord's trustee in bankruptcy following the bankruptcy of Landlord under the United States Bankruptcy Code (Title 11 U.S.C.), as now or hereafter in effect, Tenant shall not have the right to treat this PILOT Lease as terminated without the prior written consent of all Leasehold Mortgagees, and the right to treat this PILOT Lease as terminated in such event shall be deemed assigned to each Leasehold Mortgagee whether or not specifically set forth in any relevant Leasehold Mortgage, so that the concurrence in writing of Tenant and each Leasehold Mortgagee shall be required as a condition to treating this PILOT Lease as terminated in connection with any such bankruptcy proceeding;

(b) Tenant may not amend, modify, restate, terminate, surrender or cancel this PILOT Lease without the prior written consent of all Leasehold Mortgagees; and

(c) Any exercise of the above rights of Tenant in this Section 12.11 without the prior consent of such Leasehold Mortgagees shall be void at the option of such Leasehold Mortgagees.

Section 12.12 Consent to Termination.

No termination of this PILOT Lease by the Tenant shall be permitted or effective unless with the prior written consent of all Leasehold Mortgagees.

ARTICLE 13 – MAINTENANCE AND REPAIR

Section 13.1 Repair and Maintenance.

Tenant, at its sole cost and expense, shall keep the Project and the Building Equipment (as defined below), and all easements which burden, or to which is subject, all or any part of the Project, in good condition, reasonable wear and tear excepted, and in accordance with the instruments creating such easements and with this PILOT Lease and shall with all reasonable promptness make all repairs, replacements and renewals, whether ordinary or extraordinary, foreseen or unforeseen, including all structural repairs, necessary to maintain the same in good working order and repair, it being the express agreement of the parties hereto that Landlord shall have no obligation to repair, restore, renovate, maintain or rebuild the Project or Building Equipment, or any part thereof or of the Project. All repairs, replacements and renewals so required shall be at least equal in quality of material and workmanship to that existing on the date the planned improvements to the Project are complete, normal wear and tear excepted. For the purposes of this Lease, **“Building Equipment”** shall mean all equipment, apparatus, machinery, devices, fixtures, appliances and the appurtenances thereto of every kind and nature now or hereafter located in or at, and used in connection with the operation of the Project.

ARTICLE 14 – EXPIRATION OF TERM

Section 14.1 Expiration of Term.

At the end of this PILOT Lease (whether upon the expiration date or sooner termination), Landlord shall convey the Project to Tenant as provided in Article 18 below. Tenant shall pay all reasonable costs of closing, including reasonable counsel fees for Landlord’s attorney in connection with such conveyance.

ARTICLE 15 - CASUALTY, CONDEMNATION

Section 15.1 Damage or Destruction to Project.

Tenant shall give prompt written notice to Landlord and each Leasehold Mortgagee after the occurrence of any fire, earthquake, act of God or other casualty to or in connection with the Project and the Project or any portion thereof (each, a **“Casualty”**). In the event of any Casualty, Tenant, promptly and with all due diligence, may apply for all applicable insurance proceeds recoverable with respect to such Casualty. All insurance proceeds received with respect to such Casualty shall be held by the most-senior Leasehold Mortgagee and the most-senior Leasehold Mortgagee shall hold and distribute the same in accordance with this PILOT Lease and the relevant Leasehold Mortgage. Tenant and Landlord hereby agree that: (a) all Leasehold Mortgagees shall be allowed to participate in the insurer’s adjustment of losses, (b) Landlord will receive no insurance proceeds until the Project is restored and all Leasehold Mortgagees have been repaid in full, and (b) all insurance proceeds remaining after restoration is completed shall be paid to Tenant and the most-senior Leasehold Mortgagee pursuant to the applicable loan documents. If during the Term of this Lease, the Project shall be damaged or destroyed by Casualty, Tenant may repair or restore the Project so long as it is lawful, and all Leasehold Mortgagees agree that it is feasible to do so, and

adequate insurance proceeds are made available to Tenant to complete such repairs and restoration. In the event that it is not lawful or feasible to restore the Project to substantially the same condition in which they existed prior to the occurrence of such Casualty, and provided that all Leasehold Mortgages are repaid in full and all Leasehold Mortgagees consent in writing to the termination of this Lease, then Tenant may terminate this PILOT Lease (as to the entire Project and the Project or only to the portion of the Project and the Project affected by such Casualty) by notice to Landlord, such termination to be effective as of a date that is not less than thirty (30) calendar days after the date of such notice to Landlord. If Tenant terminates this PILOT Lease pursuant to this Section, Landlord shall transfer title of the Project and the Project (or such portion thereof covered by the termination) to Tenant immediately and Tenant shall lose the benefit of the PILOT as to the property conveyed. In the event that this PILOT Lease is terminated pursuant to this Section 15.1, the insurance proceeds received as the result of such Casualty shall be distributed as follows; (a) first, to the holders of any leasehold Mortgage in their order of priority, to the extent of any indebtedness then owed the Leasehold Mortgagee and (b) second, the balance, if any, shall be assigned or paid over to Tenant.

Section 15.2 Condemnation.

(a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a “**Taking**”), all of the Project and the Project are taken, or if so much of the Project and the Project are taken that in Tenant’s reasonable judgment, the Project and the Project cannot be used by Tenant for the purposes for which they were used immediately before the Taking, then this PILOT Leases hall, at Tenant’s sole option and with the prior written consent of each Leasehold Mortgagee, terminate on the earlier of the vesting of title to the Project and the Project in the condemning authority, or the taking of possession of the Project and the Project by the condemning authority, in which event Tenant must accept any conveyance of the fee interest in and to the Leased Premises from Landlord pursuant to Section 18.2 of this Lease. In the event of any Taking, the most-senior Leasehold Mortgagee shall initially receive all condemnation proceeds respecting such Taking, shall hold and distribute the same in accordance with this PILOT Lease and the relevant Leasehold Mortgage and all Leasehold Mortgagees shall be allowed to participate in the Taking proceedings.

(b) Landlord and Tenant agree that, in the event of a Taking that does not result in the termination of this PILOT Lease pursuant to this Article, this PILOT Lease shall continue in effect as to the remainder of the Project and the Development, and the net amounts owed or paid to the parties or to which either of the parties may be or become entitled by reason of any Taking or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the parties in collecting such award or payment (the “**Net Condemnation Award**”), will be disbursed to Tenant and/or any Leasehold Mortgagees, if the terms of the Leasehold Mortgage so require. The Leasehold Mortgagees shall receive notice of any Taking, and, in order of their respective priority, shall at all times have the right to participate in the adjustment and resolution of any Taking claim.

(c) If there shall be a temporary Taking with respect to all or any part of the Project and the Project or of Tenant’s interest in this Lease, then the Term shall not be reduced and Tenant shall continue to pay in full all rents, impositions and other charges required herein, without reduction or abatement thereof at the times herein specified; provided, however, that Tenant shall not be required

to perform such obligations that Tenant is prevented from performing by reason of such temporary Taking. Unless required otherwise by the first priority Leasehold Mortgagee, Tenant shall restore following a partial Taking.

(d) If there is a Taking, whether whole or partial, Landlord will only receive any Net Condemnation Award attributable to its fee interest in the Land as the same may be affected by this PILOT Lease but in an unimproved condition, subject to Tenant's purchase and termination rights and Tenant shall be entitled to receive and retain the remainder of the Net Condemnation Award, subject to the rights of the Leasehold Mortgages. Condemnation proceeds shall be payable to the first priority Leasehold Mortgagee for administration and disbursement in accordance with the provisions of its loan documents. Tenant may exercise its purchase and/or termination rights while a Taking is threatened or in process.

(e) If any Leasehold Mortgage exists, the Leasehold Mortgagee(s), to the extent permitted by law, shall be made a party to any Taking proceeding.

(f) In the case of any partial Taking, Tenant may rebuild and restore the Building on the Property, unless any Leasehold Mortgagee requires or consents to distribution of the Net Condemnation Award, in which event, the Net Condemnation Award must be applied first toward repayment of each Leasehold Mortgage in their order of priority. In the event of a partial taking, no one other than Tenant or Leasehold Mortgagee can have rights regarding restoration on the Property.

ARTICLE 16 - DEFAULT, REMEDIES

Section 16.1 Landlord's Right to Perform.

(a) Landlord's Option. If Tenant fails to pay when due amounts payable under this PILOT Lease or to perform any of its other obligations under this PILOT Lease within the time permitted for its performance, then Landlord, after thirty (30) calendar days prior written notice to Tenant and without waiving any of its rights under this PILOT Lease, may (but will not be required to) pay such amount or perform such obligation, unless Tenant notifies Landlord in writing during such thirty (30) calendar day period that Tenant is withholding the subject payment or performance due to a dispute as to the legitimacy or correctness of same and takes steps reasonably necessary to protect Landlord's interests.

(b) Additional Rent. All amounts so paid by Landlord and all reasonable costs and expenses incurred by Landlord in connection with the performance of any such obligations will be payable by Tenant to Landlord within sixty (60) calendar days after Landlord has notified Tenant in writing of the amounts incurred by Landlord on its behalf, and shall constitute Additional Rent.

Section 16.2 Events of Default.

At the option of Landlord, the occurrence of any of the following events shall constitute and are defined as an “**Event of Default**” by Tenant:

(a) Tenant defaults in the due and punctual payment of any Annual Base Rent or Additional Rent, and such default continues for thirty (30) calendar days after written notice from Landlord;

(b) Tenant intentionally and irrevocably abandons the Project;

(c) Any claim or notice of lien shall be filed against the Project or Landlord’s interest therein relating to or arising out of the construction of the Project or any other improvement to or modification of the Project, unless Tenant causes such claim or notice of lien to be discharged of record (by payment, bonding or otherwise) within sixty (60) days after Tenant receives written notice of such claim or notice;

(d) Tenant breaches any of the other agreements, terms, covenants, or conditions which are not referenced in subsection (a), (b), (c), or (e) through (i) of this Section 16.2 and this PILOT Lease requires Tenant to perform, including without limitation the provisions of Article 11 hereof, and such breach continues for a period of thirty (30) calendar days after notice by Landlord to Tenant; provided, however, if the nature of the breach is such that it cannot be cured by Tenant reasonably within the period of thirty (30) calendar days, Tenant shall not be deemed in default of this PILOT Lease if Tenant commences the curing of such default within such period of thirty (30) days and prosecutes in good faith the curing of same continuously thereafter until the same is, in fact, cured;

(e) Tenant fails to complete construction of the Project by the Completion Deadline, as the same may be extended as provided herein, that is not cured within sixty (60) days following written notice;

(f) Tenant uses the Project for uses other than the Permitted Use provided for in Section 9.1 herein that is not cured within 30 days following written notice;

(g) Tenant makes any assignment in violation of this PILOT Lease that is not cured within 30 days following written notice;

(h) Tenant voluntarily initiates any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the involuntary initiation against the Tenant of any such proceeding that is not dismissed within ninety (90) calendar days after filing, or failure by the Tenant or, as applicable, to promptly have discharged any execution, garnishment or attachment of such consequence as would impair the ability of the Tenant to carry on their operations at the Project, or assignment by the Tenant, as applicable, for the benefit of creditors, or the entry by the Tenant into an agreement of composition with creditors or the failure generally by the Tenant, as applicable, to pay its debts as they become due; or

(i) or the PILOT Agreement if such failure is not cured within any grace or cure period set forth therein or such failure is excused or remedied on appeal or as part of an administrative proceeding.

Section 16.3 Remedies.

(a) If any one or more Events of Default set forth in Section 16.2 occurs, then Landlord may, but subject in all respects to the rights of any holder of a Leasehold Mortgage as set forth in Article 12 and the Limited Partner as set forth in Section 16.4 below hereof, terminate this PILOT Lease by written notice to Tenant of its intention to terminate this PILOT Lease on the date (including any cure period described above) specified in such notice, which notice shall be at least sixty (60) days in advance of the proposed termination, and, on the date specified in such notice. This PILOT Lease shall automatically terminate as of the date specified in such notice, and Landlord will transfer title to the Project and the Project back to Tenant. Tenant acknowledges that it will lose the benefit of the PILOT upon such conveyance.

(b) No right or remedy conferred upon or reserved to the Parties in this PILOT Lease is intended to be exclusive of any other right or remedy. Each and every right and remedy shall be cumulative and in addition to any other right or remedy given under this PILOT Lease (including, but not limited to, indemnification rights benefitting Landlord) or existing at law or in equity to the extent provided for herein; provided, however, Landlord's remedies shall not include the recovery of any consequential or punitive damages.

(c) If Tenant shall fail to make any payment of taxes, assessments or other charges, maintain required insurance coverages, or perform any other act required to be made or performed under this Lease, Landlord, without waiving or releasing any obligation or default, may (but shall be under no obligation to) upon reasonable notice to Tenant, make the payment or perform the act for the account and at the expense of Tenant. All sums so paid by Landlord shall constitute additional rent and shall be paid by Tenant to Landlord on demand. Landlord's rights under this Section 16.3 are subject to the provisions of Sections 12 and 16.4.

Section 17.4 Limited Partner's Special Notice and Cure Rights.

(a) Default. If Landlord shall provide the notice required by Section 12.2 by reason of any default of Tenant, the Limited Partner shall have the right to cure such default in the manner provided to Leasehold Mortgagees in Sections 12.3, 12.4, 12.5 and 12.6.

(b) Extension of Cure Period. If at the end of the six-month period specified in Section 13.4, such Limited Partner is complying with Section 12.5, this PILOT Lease shall not then terminate.

ARTICLE 17 - MISCELLANEOUS

Section 17.1 No Brokers.

Landlord and Tenant each represents and warrants to the other that it has not dealt with any broker or finder with regard to the Project or this Lease. Each party shall indemnify the other party

from and against any damages resulting from the indemnifying party's breach of the foregoing representation and warranty.

Section 17.2 Recordation.

Landlord and Tenant shall record a short form memorandum of this PILOT Lease in the Office of the Register of Deeds for Davidson County, Tennessee. At the expiration of this Lease, Landlord shall execute a quit claim termination of its interest in this PILOT Lease and convey the Project to Tenant.

Section 17.3 Time of Essence.

Time is of the essence of each and every provision of this Lease, provided, however, that any time deadline or limitation shall be subject to extension for any delay that arises from unforeseeable causes beyond the reasonable control and without the fault or negligence of Landlord or Tenant. Examples of such causes include (a) acts of God, or public enemy, (b) acts or failure to act of a contractor in the performance of a contract with Landlord or Tenant, provided that the party hereunder seeking such action by the contractor properly requests same in a timely manner and thereafter diligently pursues same, (c) fires, (d) floods, (e) epidemics, (f) quarantine restrictions, (g) strikes or labor disputes, (h) freight embargoes, (i) unusually severe weather, (j) delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the reasonable control and without the fault or negligence of the Landlord or Tenant, as applicable, and (k) unusual disruptions in financial markets.

Section 17.4 No Waiver.

No waiver of any condition or agreement in this PILOT Lease by either Landlord or Tenant will imply or constitute a further waiver by such party of the same or any other condition or agreement. No act or thing done by Landlord or Landlord's agents during the Term of this PILOT Lease will be deemed an acceptance of a surrender of the Project, and no agreement to accept such surrender will be valid unless in writing signed by Landlord. No payment by Tenant, nor receipt from Landlord, of a lesser amount than the Additional Rent or other charges stipulated in this PILOT Lease will be deemed to be anything other than a payment on account of the earliest stipulated Additional Rent. No endorsement or statement on any check, or any letter accompanying any check or payment as Additional Rent, will be deemed an accord and satisfaction. Landlord will accept such check for payment without prejudice to Landlord's right to recover the balance of such Additional Rent or to pursue any other remedy available to Landlord. If this PILOT Lease is assigned, or if the Project or any part of the Project are sublet or occupied by anyone other than Tenant, Landlord may collect rent from the assignee, subtenant, or occupant and apply the net amount collected to the Additional Rent reserved in this Lease. No such collection will be deemed a waiver of the covenant in this PILOT Lease against assignment and subletting, or the acceptance of the assignee, subtenant, or occupant as Tenant, or a release of Tenant from the complete performance by Tenant of its covenants in this Lease.

Section 17.5 Captions, Gender, Etc.

The captions are inserted in this PILOT Lease only for convenience of reference and do not define, limit, or describe the scope or intent of any provisions of this Lease. Unless the context

clearly requires otherwise, the singular includes the plural, and vice versa, and the masculine, feminine, and neuter adjectives include one another.

Section 17.6 Entire Agreement.

Except for those that are specifically set forth in this Lease, no representations, warranties, or agreements have been made by Landlord or Tenant to one another with respect to this Lease.

Section 17.7 Amendment.

This PILOT Lease may only be amended by mutual agreement of the Landlord, Tenant, Limited Partner, and all Leasehold Mortgagees, provided that all amendments must be in writing and signed by both parties and further provided that each Leasehold Mortgagee and the Limited Partner must provide its prior written consent to such amendment.

Section 17.8 Severability.

If any provision of this PILOT Lease is found by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remainder of this PILOT Lease will not be affected, and in lieu of each provision which is found to be illegal, invalid, or unenforceable, there will be added as a part of this PILOT Lease a provision as similar to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable, provided such severability does not materially affect the basic understanding of the parties hereto as reflected in this Lease.

Section 17.9 Notices.

Any notice, request, demand, consent, approval, or other communication required or permitted under this PILOT Lease shall be in writing and shall be deemed given when (i) received, if delivered by hand, (ii) sent by registered or certified mail, return receipt requested, (iii) sent by recognized overnight delivery service such as Federal Express, or (iv) transmitted by facsimile or electronic mail, provided such notice is also sent simultaneously in the manner provided for in (i), (ii), or (iii) above, addressed as follows:

If to Tenant:

With a copy to:

If to Limited Partner:

With a copy to: _____

If to Landlord: The Health and Education Facilities Board
c/o: Housing Division

With a copy to: Department of Law
Attn: Director of Law

A party may change its address or to whom a copy should be sent by giving written notice to the other parties as specified herein.

Section 17.10 Waiver of Jury Trial.

Landlord and Tenant may waive trial by jury, by mutual consent, in any action, proceeding or counterclaim brought by either of them against the other on all matters arising out of this PILOT Lease or the use and occupancy of the Project.

Section 17.11 Cooperation.

Landlord and Tenant agree that they will cooperate with one another in all respects in furtherance of the Project. From time to time, Tenant may request modifications to the PILOT Lease to satisfy the requirements of financing sources, which financing sources include without limitation, private lenders, equity sources, and government agencies. Landlord will use all reasonable efforts to accommodate the requests of such financing sources and will not unreasonably withhold or delay its approval and execution of modifications to this PILOT Lease that do not materially and adversely alter the basic terms hereof. Nothing herein shall impose upon Landlord any requirement to approve any modification or amendment to the PILOT Lease which would violate or contravene any applicable laws or any contract or agreement to which Landlord is a party or which is binding on Landlord. Landlord agrees that it will, upon request of Tenant, from time to time, but not more frequently than once a year, enter into an amended and restated PILOT Lease combining into one document the entire PILOT Lease and all amendments and modifications theretofore entered into.

Section 17.12 Estoppel Certificates.

When requested by any Leasehold Mortgagee or either party hereto in connection with mortgage financing or sale of the Project or Development, or otherwise, the other party shall

execute, acknowledge and deliver to such requesting party a written estoppel certificate certifying, as of the date of such estoppel certificate, the following: (i) that this PILOT Lease is unmodified and in full force and effect (or if modified, that the PILOT Lease is in full force and effect as modified and setting forth such modifications); (ii) that the Term has commenced (and setting forth the Commencement Date, the Rent Commencement Date and the expiration date); (iii) the amounts of Annual Base Rent currently due and payable by Tenant; (iv) that there are no existing set-offs, charges, liens, claims or defenses against the enforcement of any right hereunder (or, if alleged, specifying the same in detail); (v) that the certifying party has no knowledge of any then uncured default by the requesting party of its obligations under this PILOT Lease (or, if the certifying party has such knowledge, specifying the same in detail); (vi) any other certifications consistent with this PILOT Lease being requested, with any qualifications to such certifications that are needed for accuracy.

Section 17.13 Quiet Enjoyment.

Tenant, upon paying the Annual Base Rent and Additional Rent and keeping, observing and performing all the terms, covenants, agreements, provisions, conditions and limitations of this PILOT Lease on Tenant's part to be kept, observed and performed, shall quietly have and enjoy the Project during the Term of this PILOT Lease without hindrance or molestation by anyone lawfully claiming by, under or through Landlord, subject, however, to the Permitted Encumbrances, reservations and conditions of this Lease.

Section 17.14 Counterparts.

This PILOT Lease may be executed by Landlord and Tenant in one or more counterparts, each of which shall be an original, but all of which together shall constitute one and the same instrument.

Section 17.15 Governing Law.

This PILOT Lease shall be governed, construed and enforced in accordance with the laws of the State of Tennessee.

17.15.1 Tenant may not grant shared appreciation rights or an equity participation in the Project.

Section 17.16 NONRECOURSE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS LEASE, OR ANY OTHER AGREEMENT, DOCUMENT, INSTRUMENT OR CERTIFICATE IN CONNECTION HERewith, NO RECOURSE SHALL BE MADE AGAINST LANDLORD FOR THE PAYMENT OR PERFORMANCE, OR FAILURE OF PERFORMANCE BY LANDLORD, OF ANY OBLIGATIONS, WARRANTIES, COVENANTS, TERMS, CONDITIONS OR OTHER AGREEMENTS HEREUNDER OR THEREUNDER, IT BEING UNDERSTOOD THAT TENANT AND ALL OTHER PERSONS SHALL LOOK SOLELY THE PROJECT, OR TO THE PROCEEDS OR AWARDS FROM THE FOREGOING, FOR SATISFACTION OR PERFORMANCE OF SUCH LIABILITIES AND OBLIGATIONS. PROVIDED, HOWEVER, TENANT MAY OBTAIN SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF TO COMPEL LANDLORD TO CONVEY TITLE TO TENANT IN ACCORDANCE WITH THIS AGREEMENT. THE OBLIGATIONS OF TENANT

HEREUNDER SHALL BE NONRECOURSE TO TENANT'S PARTNERS, AGENTS, MANAGERS AND OFFICERS.

ARTICLE 18 - OPTIONS TO PURCHASE

Section 18.1 Option to Purchase.

Tenant shall have, and is hereby granted, the exclusive and irrevocable option to purchase the Project, at any time by delivering written notice to Landlord and all Leasehold Mortgagees with a copy to Tenant's Limited Partner of Tenant's intention so to exercise such option not less than thirty (30) days or more than one (1) year prior to the proposed date of purchase; provided, that the failure of Tenant to actually deliver a copy of such notice shall not invalidate the notice or create any liability on the part of Landlord for relying upon any notice from Tenant without being required to verify or determine whether Tenant's limited partner received a copy of Tenant's notice of exercise.

Section 18.2 Purchase Terms. Upon Tenant's exercise of the purchase option provided in Section 19.1 above or upon Landlord's conveyance of the Project to Tenant upon expiration of this Lease:

18.2.1 The purchase price payable by Tenant pursuant to this Article shall be a sum equal to One Hundred and No/100 Dollars (\$100.00).

18.2.2 Landlord shall, upon receipt of the purchase price deliver to Tenant the following: documents (including, without limitation, a quitclaim deed) conveying to Tenant title to the Land as it then exists, subject to the following: (i) those liens (if any) and encumbrances to which title to said Property was subject when conveyed to Landlord; (ii) those Liens created by Tenant or to the creation or suffering of which Tenant consented; (iii) those Liens resulting from the failure of Tenant to perform or observe any of the agreements on its part contained in this Lease; (iv) Permitted Encumbrances; and (v) any lien or encumbrance other than a lien or encumbrance resulting from the action or inaction of Landlord unless consented to by Tenant.

18.2.3 The purchase of the Project shall not be effective until Tenant shall have made the following payments:

(a) To Landlord, an amount certified by Landlord sufficient to pay all unpaid fees and expenses (including reasonable attorneys' fees) of Landlord due and payable to Landlord under the Lease; and

(b) To the appropriate person, an amount sufficient to pay all other fees, expenses, or charges, if any, due and payable or to become due and payable under this Lease.

18.2.4 Upon closing of the purchase of the Project, the liabilities of Tenant and Landlord under this PILOT Lease shall terminate, except that its liabilities and obligations under Sections 4.2, 6.3, 8.1, 10.2 and 16.3 of this Lease, and as otherwise herein expressly provided, shall nevertheless survive.

18.2.5 Tenant shall pay all costs of closing, including reasonable counsel fees for Landlord's attorney.

18.2.6 The first priority lien Leasehold Mortgagee, should an Event of Default exist either under this PILOT Lease or under its loan documents, have the right instead of the Tenant, to exercise the option to purchase and under the terms of this Article 19.

[END OF THIS PAGE - SIGNATURE PAGES FOLLOW]

DRAFT

TENANT:

_____,
a Tennessee limited partnership

By: _____

Title: _____

STATE OF TENNESSEE

COUNTY OF DAVIDSON

Before me, _____, a Notary Public of said County and State, personally appeared _____, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be Manager of _____, the General Partner of _____, the within named bargainor, a Tennessee limited partnership, and that he as such Manager executed the foregoing instrument for the purposes therein contained, by signing the name of _____ in its capacity as General Partner of the limited partnership, and on its behalf, by himself as Manager of said General Partner.

Witness my hand and seal, at Office in aforesaid county and state this ____ day of _____, 2022.

Notary Public

My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION FOR LAND

[Insert _____ Legal Description]

DRAFT

EXHIBIT B

PERMITTED ENCUMBRANCES

DRAFT